

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

LUCIANO F. PAONE,

Plaintiff,

v.

MEDIATEK USA, INC.,

Defendant.

Case No. 2:15-cv-610-BMC-GRB

JURY TRIAL DEMANDED

PAONE'S ANSWER TO MEDIATEK USA, INC.'S COUNTERCLAIMS

Plaintiff Luciano F. Paone ("Paone") hereby responds to the Counterclaims (D.I. 28) of Defendant Mediatek USA, Inc. ("Mediatek") as follows:

1. Paone incorporates by reference all allegations in his Complaint (D.I. 1) in paragraphs 1 through 25 as if fully set forth herein. Paone denies all allegations in Mediatek's Defenses (D.I. 28). To the extent paragraph 1 of the Counterclaims contains any other or different allegations, they are denied.

PARTIES

2. Paone admits the allegations contained in paragraph 2 of the Counterclaims.
3. Paone admits the allegations contained in paragraph 3 of the Counterclaims.
4. Paone admits the allegations contained in paragraph 4 of the Counterclaims.

JURISDICTION AND VENUE

5. Paone admits that Mediatek purports to set forth Counterclaims arising under the Declaratory Judgement Act and the patent laws of the United States, but denies that there are any factual or legal bases for Mediatek's Counterclaims. To the extent paragraph 5 of the Counterclaims contains any other different allegations, they are denied.

6. Paone admits the allegations contained in paragraph 6 of the Counterclaims.

7. Paone admits the allegations contained in paragraph 7 of the Counterclaims.

8. Paone admits that venue is proper in this district for these Counterclaims pursuant to 28 U.S.C. § 1391. To the extent paragraph 8 of the Counterclaims contains any other or different allegations, they are denied.

FACTUAL BACKGROUND

9. Paone admits that his Complaint asserts that he is the patent holder of the '789 Patent and accuses Mediatek of infringing one or more of the claims of that patent by, among other things, selling certain Mediatek products. To the extent paragraph 9 of the Counterclaims contains any other or different allegations, they are denied.

10. Paone denies the allegations contained in paragraph 10.

11. Paone admits that an actual case or controversy exists between the parties on the issues set forth in his Complaint, which is within the Court's jurisdiction under U.S.C. §§ 2201 *et. seq.* Paone denies the remaining allegations contained in paragraph 11 of the Counterclaims.

FIRST COUNTERCLAIM

(Declaratory Judgement of Non-Infringement of the '789 Patent)

12. With respect to paragraph 12 of the Counterclaims, Paone incorporates by reference his allegations in the Complaint (D.I. 1) and his responses to the allegations contained in paragraphs 1 through 11 of the Counterclaims as set forth above.

13. Paone denies the allegations contained in paragraph 13 of the Counterclaims.

14. Paone denies the allegations contained in paragraph 14 of the Counterclaims.

SECOND COUNTERCLAIM

(Declaratory Judgement of Invalidity of the '789 Patent)

15. With respect to paragraph 15 of the Counterclaims, Paone incorporates by reference his allegations in the Complaint (D.I. 1) and his responses to the allegations contained in paragraphs 1 through 14 of the Counterclaims as set forth above.

16. Paone denies the allegations contained in paragraph 16 of the Counterclaims.

17. Paone denies the allegations contained in paragraph 17 of the Counterclaims.

RESPONSE TO MEDIATEK'S PRAYER FOR RELIEF

18. Paone denies that Mediatek is entitled to any relief whatsoever in this action, either as prayed for in Mediatek's Counterclaims or otherwise.

19. Paone further denies each and every allegation contained in Mediatek's Counterclaims to which he has not specifically responded.

DEMAND FOR JURY TRIAL

20. This paragraph of the Counterclaims does not contain an allegation requiring a response. Paone hereby demands a jury trial on all issues so triable.

Dated: September 28, 2015

Respectfully submitted,

/s/ Sean T. Doyle
Jon T. Hohenthanner (JH 4073)
Andrew G. Heinz (AH 2704)
Sean T. Doyle (SD 7678)
DESMARAIS LLP
230 Park Avenue
New York, New York 10169
Telephone: (212) 351-3400
Facsimile: (212) 351-3401

Counsel for Plaintiff LUCIANO F. PAONE

CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2015, the foregoing was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure and/or the Eastern District's Local Rules, and/or the Eastern District's Rules on Electronic Service upon the following parties and participants:

Attorneys for Defendant:

Keith L. Slenkovich
Tobias W. Mock
Wilmer Cutler Pickering Hale and Dorr LLP
950 Page Mill Road
Palo Alto, CA 94304
keith.slenkovich@wilmerhale.com
tobias.mock@wilmerhale.com

Christopher R. Noyes
Martin E. Gilmore
Wilmer Cutler Pickering Hale and Dorr LLP
250 Greenwich Street
New York, NY 10007
christopher.noyes@wilmerhale.com
martin.gilmore@wilmerhale.com

/s/ Sean T. Doyle
Sean T. Doyle